88- 1838

Supreme Court, U.S.
FILED
APR 6 1989
JOSEPH F. SPANIOL, JR.
CLERK

NO.

IN THE SUPREME COURT OF
THE UNITED STATES

OCTOBER TERM, 1988

JIM L. WILLIAMS,

Petitioner

VS.

BAPTIST MEDICAL CENTER, ET AL

Respondent

PETITION FOR CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

JIM L. WILLIAMS, pro se
P. O. Box 7083
Orange Park, Florida
32073

QUESTIONS FOR REVIEW

I. CONSIDERING THE FACTS AND STATEMENTS PRESENTED IN THE ORIGINAL COMPLAINT, CAN THE FEDERAL DISTRICT COURT JUDGE INVOLVED DISMISS THIS CASE WITH PREJUDICE? A SUBSIDIARY QUESTION IS CAN THE AFOREMENTIONED JUDGE DISMISS THIS CASE WITH PREJUDICE AFTER SOME AMENDMENTS OR MOTIONS AND EXHIBITS WERE STRUCK FROM THE RECORD BY A MAGISTRATE PRIOR TO THE DISMISSAL? STRUCK FROM THE RECORD BY THE MAGISTRATE WERE AMENDMENTS TO THE COMPLAINT AS WELL AS EXHIBITS RELEVANT TO THE COMPLAINT. IN PART, FACTUAL EVIDENCE IN THE EXHIBITS WERE A FORM OF STATING THE COMPLAINT.

II. CAN THE FEDERAL DISTRICT COURT JUDGE DISMISS THIS CASE BASED ON THE REASONS SHE GAVE IN HER ORDER DISMISSING THIS CASE? SUCH REASONS WERE THAT THE TITLE 42, SECTION 1983 CLAIM WAS UNTIMELY DUE TO THE STATUTE OF LIMITATIONS BECAUSE AMENDMENTS

TO THE COMPLAINT DID NOT "CHALLENGE" ANY CONDUCT OF THE DEFENDANTS; THAT THE TITLE 42, SECTION 1983 COMPLAINT HAD NO MERIT; THAT THE TITLE 42, SECTION 1985 (2) CLAIM WAS BARRED BY THE STATUTE OF LIMITATIONS; THAT THE TITLE 42, SECTION 1985 (2) CLAIM DID NOT STATE A CAUSE OF ACTION AND THAT THE COMPLAINT ALLEGED NO SET OF FACTS THAT WOULD ENTITLE A RECOVERY. I WILL NOT STATE OTHER SUBSIDIARY QUESTIONS INCLUDED IN THIS QUESTION FOR REVIEW AT THIS TIME.

III. ONE OF THE DEFENDANTS EVIDENTLY FAILED TO COMPLY WITH AN ORDER ISSUED IN THE UNITED STATES DISTRICT COURT, JACKSONVILLE, FLORDA. SUCH A FAILURE WILL RESULT IN A DEFAULT JUDGMENT IN FAVOR OF THE DEFENDANT ACCORDING TO THIS ORDER TITLED ORDER DIRECTING COUNSEL TO COMPLY AND PLAINTIFF TO REPORT. THIS PLAINTIFF ATTEMPTED TO FILE A LETTER TO THE DEFENDANT IN QUESTION IN THE COURT RECORD PRIOR TO THE DISMISSAL ORDER, BUT

THIS WAS NOT DOCUMENTED IN THE DISTRICT COURT DOCKET SHEET. MOTIONS OR REQUESTS WERE MADE BY THE PLAINTIFF TO THE DISTRICT COURT AND COURT OF APPEALS TO DECLARE A DEFAULT JUDGMENT AGAINST THE DEFENDANT IN QUESTION AFTER THE DISMISSAL IN DISTRICT COURT. INCLUDED IN THESE REQUESTS OR MOTIONS WERE EXHIBITS SUPPORTING THIS REQUEST, YET BOTH THE DISTRICT COURT AND COURT OF APPEALS DENIED THIS REQUEST. THE QUESTIONS FOR REVIEW HERE IS WHY SHOULD OR SHOULD NOT A DEFAULT JUDGMENT BE GRANTED. THIS INCLUDES ALL SUBSIDIARY QUESTIONS INCLUDED UNDER THIS SUBJECT.

IV. THIS PLAINTIFF DISPUTED TO THE COURT OF APPEALS THE DISTRICT COURT MAGISTRATE'S ORDER THAT STRUCK FROM THE RECORD VARIOUS EXHIBITS AND AMENDMENTS OR MOTIONS. A REQUEST WAS MADE BY THIS PLAINTIFF TO THE COURT OF APPEALS TO CONSOLIDATE OR CONSIDER TOGETHER THESE DISPUTED EXHIBITS AND MOTIONS

OR AMENDMENTS WITH THE ORIGINAL APPEAL NUMBERED 88-3444 BY THE COURT OF APPEALS. THIS REQUEST WAS DENIED. THE QUESTION FOR REVIEW IS WHY SHOULD NOT THE REQUEST BE GRANTED AND DID THE COURT OF APPEALS ACT CORRECTLY WHEN SUCH REQUEST STATED THAT THE EXHIBITS AND AMENDMENTS WERE RELEVANT TO THE APPEAL IN ORDER THAT JUSTICE BE SERVED.

V. THE QUESTION OF THE POWER VESTED IN STATE CERTIFIED MEDICAL PERSONALITIES IN A STATE COURT ORDERED MEDICAL OR "PSYCHIATRIC" INVOLUNTARY COMMITMENT IS ALSO AT ISSUE. DOES THIS VESTED POWER ALLOW THEM TO COMMIT CRIMINAL ACTS OF VIOLENCE AND CIVIL TORTS AGAINST THE COMMITTED INDIVIDUAL UNDER THE DISHONEST PRETENSE OF MEDICAL TREATMENT? IF THIS ALONE IS NOT A FEDERAL QUESTION, THEN DOES IT BECOME A FEDERAL QUESTION WHEN A STATE INVESTIGATOR, RESPONDING TO SUCH

A COMPLAINT, PREJUDICIALLY COOPERATES WITH THE ACCUSED MEDICAL PERSONALITIES IN HIS INVESTIGATION WHICH CONSEQUENTLY PREVENTS THE COMMITTED INDIVIDUAL FROM DUE PROCESS OF STATE ADMINISTRATIVE PROCEDURE? DOES IT BECOME A FEDERAL QUESTION WHEN THE ACTS OF VIOLENCE AND CIVIL TORTS ARE CLASS-BASED AND BASED IN PART IN ANIMUS? DOES THE PLAINTIFF, PRO SE, IN THIS CASE HAVE THE RIGHT TO A TRIAL BY JURY IN ORDER TO LET THE JURY DECIDE ANY OF THESE ISSUES?

LIST OF PARTIES TO THE PROCEEDING

1. (A) David L. Sall, Defendant,

   (B) Michael Davie, Attorney for above-named Defendant, P. O. Drawer 2069, Jacksonville, Florida 32203.

2. (A) David Cheshire, Defendant.

   (B) Roland Williams, Attorney for above-named Defendant, 601 Blackstone Building, 233 E. Bay Street, Jacksonville, Florida 32202.

3. (A) Baptist Medical Center, Defendant.

   (B) Timothy Volpe, Attorney for above-named Defendant, 1800 Florida National Bank Tower, P. O. Box 53315, Jacksonville, Florida 32201-3315.

4. (A) David Orea, Pro Se Defendant, 4237 Salisbury Road, Suite 407, Jacksonville, Florida 32216.

This list includes only the Defendants listed in the Complaint and their attorneys of record. Other individuals involved were not listed for the sake of brevity.

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REFERENCE TO THE OFFICIAL REPORTS OF OPINIONS DELIVERED IN THE COURT BELOW

1.) Order directing counsel to confer and Plaintiff to report, ordered January 5th, 1988 by United States District Judge, Susan Black, Middle District of Florida.

2.) Order striking requests and exhibits from Court Record on April 25th, 1988 by Harvey Schlesinger, United States Magistrate, Middle District of Florida. Opinions given.

3.) Order to dismiss complaint with prejudice issued by United States District Judge, Susan Black, Middle District of Florida, May 27th, 1988. Opinions given.

4.) Order granting or denying various motions, September 1st and 7th, 1988, issued by United States Court of Appeals, Eleventh Circuit, Atlanta, Georgia.

5.) Order granting or denying various motions. Issued by United States Circuit Judge, United States Court of Appeals, Atlanta, Georgia, September 27th, 1988. Opinion given.

6.) Order denying various requests and motions issued by Judge Susan Black, November 18th, 1988, United States District Court, Middle District Court of Florida. Opinion given.

7.) Order denying two motions, issued by James Hill, United States Circuit Judge, December 28th, 1988, United States Court of Appeals, Eleventh Circuit, Atlanta, Georgia.

8.) Decision affirming District Court Judge's dismissal of case. Issued by United States Court of Appeals, Eleventh Circuit, January 13th, 1989. Opinion given.

STATEMENT OF JURISDICTION

NOTICE IS HEREBY GIVEN THAT JIM L. WILLIAMS, THE PLAINTIFF-APPELLANT, APPEALS TO THE SUPREME COURT OF THE UNITED STATES FROM THE DECISION OR JUDGMENT ENTERED IN THIS ACTION IN THE UNITED STATES COURT OF APPEALS, ELEVENTH CIRCUIT, JANUARY 13, 1989 THAT AFFIRMS THE JUDGMENT AND ORDER BY SUSAN BLACK, UNITED STATES DISTRICT JUDGE, FILED IN MAY 1988, IN THE MIDDLE DISTRICT OF FLORIDA, JACKSONVILLE DIVISION. THIS PLAINTIFF-APPELLANT ALSO APPEALS TO THE SUPREME COURT OF THE UNITED STATES IN REGARDS TO SOME OF THE OTHER DECISIONS, JUDGMENTS, OR ORDERS ISSUED IN THIS CASE IN BOTH THE UNTITED STATES DISTRICT COURT AND COURT OF APPEALS. THESE COURT DECISIONS ARE LISTED IN "REFERENCE TO THE OFFICIAL REPORTS OF OPINIONS DELIVERED IN THE COURTS BELOW" AND ARE NUMBERED TWO THRU EIGHT.

THIS APPEAL IS TAKEN PURSUANT TO UNITED STATES CODE TITLE 28, SECTION 1254(1).

CONSTITUTIONAL PROVISIONS, LAWS WHICH THIS CASE INVOLVES

THIS CASE INVOLVES TITLE 42, SECTION 1985(2) AND SECTION 1983 OF THE UNITED STATES CODE AND TITLE 42, SECTION 9501, PARTS D(i), F, G, J, K, AND N. THIS CASE ALSO INVOLVES THE EIGHTH AND FOURTEENTH AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.

STATEMENT OF THE CASE

To state this case I will briefly give some background information in order to orient this court before addressing the questions presented to this court. This incident began in Charlotte, North Carolina in 1983. I was involuntarily committed for five days in Charlotte, N.C. to a hospital. At one point during those five days, a group of hospital employees came into my room and injected me twice with a potent "tranquilizer" under the deliberately false pretense that I had been acting up or behaving improperly,. One or both of my parents must have lied in order to have me committed. Exactly why they did this I cannot say for certain. However, a few weeks before this commitment, my father stated to me, "we are going to make an example of you,"

for no apparent reason at the time. Without going into any more details here, I will just state the incident appeared to be a preplanned dirty trick, although it did seem to involve spontaneous acts. Considering among other things the advanced age of my parents and how that could affect their behavior and thinking processes, I have chosen not to take legal action against them in this matter up to this point.

In regard to question five of this writ, in October of 1983 I was committed under the Baker Act by a state Judge in Jacksonville at the request of my father. I was taken to Baptist Medical Center and placed in the Security section of the "Psychiatric" Ward. The following evening I asked the nurse or employee at the desk to see a doctor. I had not yet

talked to one nor had I been able to obtain a lawyer as I was fairly new to the Jacksonville area. After making the request I returned to reading magazines, but a few minutes later a group of employees came up to me and stated that I had to be injected with a drug (later said to be Haldol) because I had been acting up. The injection was extremely debilitating and this effect lasted for weeks. After the injection David Sall, one of the defendants, came to interview me. At-that time the injection was taking effect and I was incapable of talking in sentences or raising my head for more than a second or two. About two weeks after this injection I had a court hearing, apparently required by law to determine whether I should stay committed or be released. In my original

complaint and exhibits I stated and showed where fictitious accounts of my behavior were documented in the hospital records in order to rationalize the above-mentioned injection. Also stated or shown in my complaint or exhibits was a degree of animus shown towards me by some hospital personnel or the defendants. I will briefly state here that during the two-week period leading up to this court hearing, but after the injection, I was threatened with other injections. These threats were unwarranted and had an inhibiting effect on my willingness to testify freely at the court hearing. I was also unable to testify freely and effectively because of the physical debilitating effect the one injection I had received had on my mental faculties or brain functioning.

Plus I was fearful that if I was recommitted to Baptist Medical Center after testifying honestly as to what some employees and defendants had been doing to me, I would be unnecessarily injected again and the one injection was clearly life threatening.

In the months following my release from Baptist Medical Center, I attempted to take legal steps to pursue justice in this case. This is when the incident with the state investigator referred to in paragraph five of the "Questions For Review" occurred. In making a complaint with the Health and Rehabilitative Services Department of Florida, I made about three or four phone calls to that agency. I also sent them a letter accompanied by my written testimony concerning the incident.

This written testimony was in the exhibits to my complaint in Federal District Court that were struck from the record. This state investigator with HRS that was assigned to my complaint never talked to me; yet he stated in his final report that "in view of the content and rambling letter not specifically alleging any complaint with which this office could address and the apparent illness suffered by the complainant no contact was solicited. It is understood the complainant has contacted Mr. Owen by telephone a number of times." He went on to state that "it was impossible to determine exactly the content of the letter as he never specifically indicated what problems he experienced. . ." This report clearly indicates a bias by this investigator.

This report was written March 18, 1985 and as a conspiratorial act would extend the running of the Statute of Limitations in regard to my complaint under Sections 1983 and 1985(2) of title 42, I did not list this investigator as a defendant because as a pro se I was uncertain as to whether he had immunity from being sued. However, this investigator did talk to some of the Baptist Medical Center employees involved in this complaint prior to writing his final report. The above-mentioned incident was listed in my complaint and was also discussed in my appeal to the Court of Appeals in Atlanta. The running of the Statute of Limitations is referred to in paragraph two of my "Questions for Review" and was one reason given for dismissing my complaint.

I also filed a complaint with the Florida Medical Association concerning the defendants Sall, Cheshire, and Orea. In response these defendants sent letters in the Spring of 1987 stating among other things I was at that time "seriously disturbed" and "clearly paranoid"; yet none of these defendants had personally talked to me or seen me since I was released from confinement in December of 1983.[1] As a conspiratorial act this would extend the Statute of Limitations also, however in Judge Susan Black's order dismissing the complaint, she uses the concept of "challenge" in arguing that the complaint under Section 1983 of Title 42 is time barred by

[1] See Appendix for copies of letters by defendants

the statute of limitations. This concept is not a relevant concept in dismissing this complaint. The above mentioned letters were referred to in my complaint that was reviewed by Judge Black. Furthermore, concerning the questions numbered one, two, and five that were presented for review to this court, I would like to state that the facts I stated in my complaint, amendments, and exhibits were not only evidence of acts relevant to the statute of limitations, but at the same time indicated that this complaint meet the other requirements necessary for a civil action under sections 1983 and 1985 (2) of Title 42. In regard to paragraph five of the amendments to the original complaint, which was reviewed by Judge Susan Black, stated facts indicated a close nexus or conspiracy between the hospital employees or defendants and the HRS investigator. The obvious bias of the investigator indicated that he was unfairly cooperating with

the defendants' allegations that I was incompetent or suffering from a psychiatric illness. The HRS investigator, as a state employee, had some degree of government authority to investigate and pursue my complaint objectively in order to obtain evidence to substantiate my complaint. In not doing so, the investigator denied my rights under state law to obtain evidence of medical malpractice and other legal violations through the use of the HRS complaint process. My complaint also indicates a possible symbiotic financial relationship between state employees overseeing the medical profession and the defendants. Also, in regard to questions one, two, and five that are being presented for review by this court; paragraphs four, five, and six of the amendments to the complaint that were reviewed by Judge Susan Black, and the exhibits that were struck from the record, indicate a continuing class-based

abuse of process conspiracy that denied my rights as defined under Section 1983 of Title 42. One judicial ruling which I cited in my appeal was Slavin V. Curry, C.A. Tex 1978, 574 F.2d 1256. This was in reference to the running of the statute of limitations.

Some federal judicial rulings have denied that licensed medical doctors have extreme authority clothed in the power of state law. However, in this incident, under state law the defendant David Cheshire could have released me from involuntary confinement on a whim. In this situation he had more authority than a policeman or a judge.

Also, in regard to paragraphs one, two, and five of the questions for review, my complaint and exhibits did indicate that I had a legitimate complaint under Section 1985 (2) of Title 42 because they indicated the actions against me were class based.

The defendants were state designated "professionals" while I was insane or suffering from a psychiatric illness according to these "professionals." Of course, as stated in the complaint, the insanity or mental illness accusations and designations were one improper purpose of the conspiracy. It was also class-based in other ways in that some of the hospital employees and doctors participating in the conspiracy did so for a variable number of reasons based on racial, gender, age, creed, and socioeconomic reasons. And in reality the defendants were "clothed in the authority of the state" in this situation. The defendants blatantly exploited this fact. It was also class-based in that I was the psychiatric patient while the defendants were the medical team of doctors and hospital personnel. And as members of the medical team, they had the authority to force me to do things against my will

under the guise of treatment. One form of animus, besides fictitious accounts of my behavior, was also referred to in paragraph two of the amendments to the complaint which was reviewed by Judge Susan Black. In regard to my complaint under Section 1985 (2) of Title 42, the ruling in German V. Killeen D.C. Mich 1980, 495 F. supp. 822, indicates that showing a conspiracy based on class-based animus precludes the need to show state action under color of law. My complaint and appeal did indicate that this occurred.

In regard to Section 1983, Title 42, there was an abuse of process that was evident in the stated facts of my complaint and amendments to it. Cause of action may not have been totally clarified in the original complaint and amendments. However, in other amendments and in my brief to the court of appeals, I stated that there was a class-based conspiracy and a conspiracy

of action in concert between the state and the defendants.

The paragraph numbered three in the questions for review concerns the defendant, pro se, David Orea. When I first filed the complaint, the parties involved were ordered by the District Court to confer. I was unable to confer with David Orea. After trying to reach him by phone, I mailed a letter to him explaining that we were ordered to confer. I also personally attempted to file the letter in the court record with a Civil District Court Clerk. However, there is no record of this in the court docket sheet. I received no response from this defendant. I had intended to file for a default judgment in District Court when Judge Susan Black's order dismissing the case was issued. This dismissal order, of course, came unexpectedly to me because the last item I had received from the District Court was an item from a clerk

concerning some sort of pretrial date during the upcoming summer months. When this case was on appeal, I did request from the Court of Appeals a default judgment. This request was denied because it was not previously before the District Court. I then requested a default judgment in District Court. The District Court ruling was that they no longer had power to rule on the case and no longer had subject matter jurisdiction of the case. It may very well be that these rulings were correct. However, the letter to Orea that I did attempt to file with a Civil Court Clerk was not in the District Court record, and if it had been, Judge Susan Black may have ruled that a default judgment was in order instead of totally dismissing the complaint. I state that the clerk's failure to file or note the letter to Orea in the court record would come under the category of clerical error, and at the very least my request for a default

judgment should be reconsidered in either District Court, the Court of Appeals, or by this Court. Copies of the letter I sent to Orea, as well as another document, did accompany my request for default judgment.

Concerning question four, the exhibits that were struck from the record by a District Court Magistrate were a form of factually stating part of the complaint. The rules of federal procedure indicate that stating or showing facts can be a sufficient form of stating a complaint. The exhibits were a form of stating the complaint. When I appealed this case to the Court of Appeals in Atlanta, I requested that the court review these exhibits with the rest of my appealed complaint. This request was denied. I made some other requests involving improving my complaint that were also denied. As a pro se, I think I should have been allowed to make these improvements to my complaint both in the District Court and

then when I appealed the case. The District Court Magistrate cited two local rules when he struck the exhibits and other requests from the record. One of these, Local Rule 4.01, is vaguely worded to me, as a pro se. Also, during this time, I was still intermittently taking antibiotics for a problem that I referred to in my brief to the Court of Appeals.

BASIS OF FEDERAL JURISDICTION IN THE COURT OF FIRST INSTANCE

This complaint was brought pursuant to Title 42, Section 1983, Section 1985 (2), and Section 9501. Title 28, Section 1331 states that United States District Courts shall have original jurisdiction of all civil actions arising under the constitution and laws of the United States. Jurisdiction of Title 42, Section 1985 (2) is also stated in Title 28, Section 1343 of the United States code.

ARGUMENT FOR WRIT

I have requested that a jury decide my complaint. The injustices committed against me violated common decency and federal law and were done in a confident, blatant manner and no amount of rationalizing by federal judges will ever convince me otherwise. I also believe that if an impartial trial jury was allowed to hear this case, they would rule in my favor.

The problem of criminal acts against medical "patients," or torture or abuse of "patients" by medical personalities, will not spontaneously diminish in this country anytime soon, especially if state agencies or state employees demonstrate they are more concerned with protecting the medical personalities involved rather than with protecting the victims, as in this case. This court must address this problem.

CONCLUSION

My case involves numerous questions, one of which is whether a person accused of being incompetent or insane at a court commitment hearing should be allowed to testify in his defense without being drugged prior to his testifying. In this case I was drugged under dishonest pretenses.

During my appeal to the Court of Appeals I attempted to file amendments to my Complaint and a Revised Complaint with the Court of Appeals. Some of these amendments were in response to a defendant's attorney's criticism of my complaint that he addressed to the Court of Appeals. These amendments that I attempted to file would not have been necessary if the District Court Magistrate had not struck from the record some amendments and exhibits when the case was still in the District

Court. This is also why I requested that the Court of Appeals review these items that were struck from the record with my complaint and amendments that were not struck from the record. According to my records the Court of Appeals never ruled on the Revised Complaint or the amendments I filed in response to the defendant's attorney's criticism of my complaint that he addressed to the Court of Appeals, because the Court of Appeals Clerk returned them to me under the reason that they needed to go to the District Court. However, to me these amendments were similar to the ones struck from the record in District Court.

Respectfully submitted,

Jim L. Williams
P. O. Box 7083
Orange Park, FL

APPENDIX

I. Part I: Copies of all judicial statements in this case in chronological order.

II. Part II: Copy of a Request for Default Judgment.

1. Copies of three letters by defendants.

2. Copy of Notice of Appeal.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

JIM L. WILLIAMS,
Plaintiff,

vs. Case No. 88-8-Civ-J-14

BAPTIST MEDICAL CENTER, et al.,
Defendants.

O R D E R

This case is before the court on the following motions: David L. Sall's Motion to Dismiss, filed on January 25, 1988; the Motion to Dismiss of David W. Cheshire, filed on January 25, 1988; and the Defendant Baptist Medical Center's Motion to Dismiss, filed on January 25, 1988. The plaintiff filed responses to the motions on March 9, 1988.

The plaintiff filed his pro se Complaint in this case on January 4, 1988, and thereafter filed certain "amendments" on January 7, 1988.[1] In these pleadings

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[1]Under Rule 4.01, Local Rules of the United States District Court for the Middle District of Florida, the plaintiff was required to file his amended Complaint in its entirety, and not simply the amendments. Because the plaintiff is appearing pro se in this case, the Court will waive this rule in this instance.

[hereinafter the "Complaint"], the plaintiff alleges that the defendants drugged him against his will while he was a psychiatric patient at Baptist Medical Center in October 1983, and that this drugging affected his behavior at a November 1983 involuntary commitment hearing. According to the plaintiff, the defendants' conduct gives rise to liability under Title 42 U.S.C. §§ 1983, 1985 (2), and 9501.

In their motions to dismiss, the defendants offer a variety of reasons why the Complaint should be dismissed. The Court will address the defendants' arguments in the context of each of the asserted legal grounds for recovery.

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[2]The plaintiff actually states that the defendants violated Section 1985 (b), and then quotes certain language from Section 1985 (2). Because no Section 1985 (b) is found in Title 42 of the U.S. Code, the Court assumes that the plaintiff seeks recovery under Section 1985 (2).

I. Section 1983 Claim

In seeking recovery under Section 1983, the plaintiff challenges the conduct of the defendants in October 1983 which caused him to become involuntary committed in November 1983. Applying the governing four-year limitations period regarding intentional torts, Fla. Stat. § 95.11(3)(o), the Court finds that this claim is barred as untimely.[3]

The plaintiff argues that the "amendments" to the Complaint allege conduct within the limitations period. The Court finds, however, that these amendments do not challenge any conduct of the defendants occurring subsequent to 1983, and that they therefore do not render the January 1988 Complaint timely.

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[3]The Court notes that the plaintiff's claim would also be untimely if the Court applied the limitations period governing negligence claims, see Fla. Stat. § 95.11(3)(a), or the period governing medical malpractice claims. See Fla. Stat. § 95.11(4)(b).

Even if the Court were to find that the Complaint is not barred by the statute of limitations, the Court would dismiss the Section 1983 claim on its merits. In order to obtain relief under Section 1983, a plaintiff must show (a) that the defendant deprived him of a right secured to him by the Constitution or federal law, and (b) that the deprivation occurred under color of state law. Sims v. Jefferson Downs, Inc., 611 F.2d 609 (5th Cir. 1980). To satisfy the second prong of this test, a plaintiff seeking recovery from private parties must allege facts showing that the alleged infringment of federal rights is "fairly attributable to the state." Lugar v. Edmondson Oil Co., 457 U.S. 922, 937 (1982).

In the present case, the plaintiff challenges the alleged decision of private physicians and a private hospital to give him medication against his will. The

plaintiff makes no allegations, however, that would suggest that this decision was compelled or even influenced by any state regulation. Given the absence of such allegations, the Court cannot infer that the defendants' conduct was fairly attributable to the state. See Randell-Baker v. Kohn, 457 U.S. 830 (1982) (employee discharge decisions not actionable because they were neither compelled nor influenced by state law).

II. Section 1985(2) Claim

The plaintiff alleges that the defendants denied him the ability to testify freely at his civil commitment hearing in violation of 42 U.S.C. § 1985(2). Again applying the four-year limitations period set forth in Fla. Stat. § 95.11(3)(o), the Court finds that this Section 1985(2) claim is time-barred. In addition, even if this claim was not untimely, the Court would find that it must be dismissed for failure to state a cause of action. As noted by

the court in Deubert v. Gulf Federal Savings Bank, 820 F.2d 754, 758 (5th Cir. 1987), Section 1985(2) was intended to protect parties who attend or testify in federal court. It does not provide a cause of action for persons denied the ability to freely testify in state administrative proceedings. Id.

III. Section 9501 Claim

Finally, the plaintiff suggests in his Complaint that he is entitled to recovery under 42 U.S.C. § 9501, the "Bill of Rights" for mental health patients. The Court finds, however, that Section 9501 provides neither substantive rights nor a private right of action to enforce substantive rights. Its precatory language is clearly designed only to provide recommendations to the states regarding protection of mental health patients.

IV. Conclusion

The Court finds that the plaintiff's Complaint alleges no set of facts which would entitle him to recovery under Sections 1983, 1985(2), or 9501. Although pro se civil rights complaints must be treated with special liberality, Haines v. Verner, 404 U.S. 519 (1972), the Court cannot infer the existence of a cause of action where none has been plead. The Court will therefore grant the defendant's motions and dismiss the Complaint with prejudice pursuant to Rule 12(b)(6), Federal Rules of Civil Procedure.

Accordingly, it is

ORDERED:

1. That David L. Sall's Motion to Dismiss, filed on January 25, 1988, is granted.

2. That the Motion to Dismiss of David W. Cheshire, filed on January 25, 1988, is granted.

3. That the Defendant Baptist Medical Center's Motion to Dismiss, filed on January 25, 1988, is granted.

4. That the Complaint, filed on January 4, 1988, is dismissed with prejudice.

5. The the Clerk of the Court shall enter judgment dismissing this case with prejudice.

DONE AND ORDERED at Jacksonville, Florida this 26th day of May, 1988.

/s/

Susan H. Black
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of Record

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE/OCALA DIVISION

JIM L. WILLIAMS,

Plaintiff(s);

v. Case No. 88-8-Civ-J-14

BAPTIST MEDICAL CENTER, et al.,

Defendant(s)

ORDER DIRECTING COUNSEL TO CONFER AND PLAINTIFF TO REPORT

It is the practice and policy of the Court, at an early date after an action is filed, to establish a period of time (1) to join other parties and to amend the pleadings: (2) to file and hear motions; (3) to complete discovery; and (4) to schedule a preliminary pretrial conference and/or a final pretrial conference and trial pursuant to Rule 16(b), Federal Rules of Civil Procedure.

Therefore, **IT IS ORDERED THAT:**

1. The plaintiff (or the defendant in removal cases) shall serve a copy of this Order upon all other parties, and

shall, within sixty (60) days from the date of this Order, file a Certificate of Service which certifies that all named parties have been served a copy of this Order.

2. Not later than eighty (80) days from the filing date of the complaint (or, in removal cases, from the filing date of the removal petition), each plaintiff or his attorney shall answer in writing the following standard interrogatories, and shall serve the answers upon every other party, and file them with the Clerk of the Court:

PLAINTIFF'S INTERROGATORY #1

Describe the Basis of Federal Jurisdiction, including all laws, acts having the force and effect of law, codes, regulations and legal principles, standards and customs or usages, which the plaintiff contends are applicable to the instant action. (Plaintiffs in removal cases may state that a motion for remand to state court has or will be filed.

PLAINTIFF'S INTERROGATORY #2

Outline in detail the discovery anticipated by the plaintiff, including the number of depositions, and a description of the deponent(s) to be taken by the plaintiff in the instant action.

PLAINTIFF'S INTERROGATORY #3

Describe the nature of any dispositive motions which the plaintiff anticipates may be filed in the instant action.

3. Not later than ten (10) days after plaintiff has filed his answers to interrogatories, each defendant or his attorney shall answer in writing the following standard interrogatories, and shall serve the answers upon every other party, and file them with the Clerk of Court:

DEFENDANT'S INTERROGATORY #1

State to the best of your knowledge whether all proper parties have been joined, or if you contend that some other person or legal entity is, in

whole or in part, liable to the plaintiff or defendant in this matter, state their full name, address, and telephone number and describe in detail the basis of the alleged liability.

DEFENDANT'S INTERROGATORY #2

Outline in detail the discovery anticipated, including the number and type of depositions anticipated to be taken by the defendant in the instant action.

DEFENDANT'S INTERROGATORY #3

Describe the nature of all dispositive motions which are anticipated to be filed in the instant action.

4. The attorneys for all parties, and/or any unrepresented party, are directed to confer and plaintiff shall answer in writing the following joint standard interrogatories, and shall serve the answers upon every other party, and file them with the Clerk of Court no later than May 5, 1988.

JOINT INTERROGATORY #1

Estimated time required to complete all discovery.

JOINT INTERROGATORY #2

Estimated time required to file motion.

JOINT INTERROGATORY #3

Estimated time required for trial.

JOINT INTERROGATORY #4

Probability of settlement.

JOINT INTERROGATORY #5

State whether the scheduling of a preliminary pretrial conference in accordance with Rule 16(c) would be of assistance in the instant action.

NOTE: If the Court determines that a preliminary pretrial conference would not be necessary, it is the Court's intention to set a final pretrial conference based on the answers to interrogatories.

IT IS FURTHER ORDERED that, in accordance with Rule 16(f), Federal Rules of Civil Procedure, plaintiff's failure to comply with the provisions of this Order will result in the dismissal of the instant action, and defendant's failure to comply will result in default judgment for the plaintiff.

DONE AND ORDERED at Jacksonville, Florida, this 5th day of January, 1988.

SUSAN H. BLACK
United States District Judge

by: /s/
Mary Frances Kennelly
Deputy Clerk

Copies to Plaintiff

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

JIM WILLIAMS,

Plaintiff,

vs. Case No. 88-8-Civ-J-14

BAPTIST MEDICAL CENTER
DAVID W. CHESHIRE
DAVID L. SALL and
DAVID A. OREA

Defendants.

O R D E R

The Request to Amend Original Complaint filed April 8, 1988, the Request to Amend Original Complaint filed April 21, 1988, and The Request to Enter Exhibits Relevant to Complaint filed April 21, 1988, by the Plaintiff, should be treated as Motions and they fail to comply with Local Rule 3.01 and are, therefore, STRICKEN. In addition, any Motion to Amend the Complaint should comply with Local Rule 4.01 when the Amended Complaint is filed.

DONE AND ORDERED at Jacksonville, Florida, this 21st day of April, 1988.

/s/
HARVEY E. SCHLESINGER
United States Magistrate

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

JIM L. WILLIAMS,

Plaintiff,

vs. Case No. 88-8-Civ-J-14

BAPTIST MEDICAL CENTER
DAVID W. CHESHIRE,
DAVID L. SALL, and
DAVID A. OREA,

Defendants.

O R D E R

This case is before the Court on the plaintiff's Request to Send Exhibits and Amendments to U.S. Court of Appeals, filed on June 29, 1988. In his request, the plaintiff asks that the Court send his April 1988, motions to amend the complaint and exhibits to the proposed amended complaint to the Court of Appeals. Because these documents are already part of the record which is being transmitted to the Court of Appeals, the Court will deny the request as moot.

Accordingly, it is

ORDERED that the plaintiff's Request to Send Exhibits and Amendments to U.S. Court of Appeals, filed on June 29, 1988, is denied as moot.

DONE AND ORDERED at Jacksonville, Florida this 12th day of July, 1988.

/s/
Susan H. Black
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of Record

UNITED STATES COURT OF APPEALS
Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

September 1, 1988

Miguel J. Cortez
Clerk

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 88-3444 WILLIAMS vs. BAPTIST MEDICAL CENTER, ET AL

D.C. # 88-8-CIV-J-14

Please take notice that the following motions have been filed:

1. Motion to supplement the record with letter addressed to David Orea filed by appellant. (Granted)
2. Motion to supplement the record with statement from courier service of delivery of certain documents to David Orea filed by appellant. (Denied)
3. Motion to amend/supplement the statement of case in appellant's brief. (Granted)
4. Motion for default judgment. (Denied)

Any response which a party wishes to file must be received by this office on or before September 11, 1988, after which the motions and the responses will be forwarded to the court for ruling without oral argument.

Copies of the court's decision will be sent to all counsel and to pro se parties.

Sincerely,

MIGUEL J. CORTEZ, Clerk

BY /s/
Debbie Cordell
Deputy Clerk

cc: Jim L. Williams
Timothy W. Volpe
Roland Williams, Jr.
Michael J. Davie
David A. Orea

UNITED STATES COURT OF APPEALS
Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

September 7, 1988

Miguel J. Cortez
Clerk

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 88-3444 WILLIAMS vs. BAPTIST MEDICAL CENTER, ET AL

D.C. # 88-8-CIV-J-14

Please take notice that the following motion has been filed:

Appellants' motion to include statements of courier service as exhibits to appeal. (Denied)

Any response which a party wishes to file must be received by this office on or before September 14, 1988, after which the motion and the response will be forwarded to the court for ruling without oral argument.

Copies of the court's decision will be sent to all counsel and to pro se parties.

( ) Counsel filing the referenced motion should forward a certificate of interested persons as required by 11th Cir. R. 27-1(a) within the designated time period.

Sincerely,

MIGUEL J. CORTEZ, CLERK

/s/
Debbie Cordell
Deputy Clerk

cc: Jim Williams
Guy O. Farmer
Roland Williams
Michael J. Davie
David A. Orea, M.D.

MOT-1
7/87

UNITED STATES COURT OF APPEALS
Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

September 27, 1988

MEMORANDUM TO ADDRESSEES LISTED BELOW:

NO. 88-3444 WILLIAMS vs. BAPTIST MEDICAL CENTER

D.C.# 88-8-CIV-J-14

The following action has been taken in referenced case:

XX The enclosed order has been ENTERED.

__ An extension of time has been granted to and including

__ for filing appellant's/petitioner's brief.

__ for filing appellee's/respondent's brief.

__ for filing a reply brief.

__ for filing a petition for rehearing, which is due to be filed in the clerk's office on said date.

__ for filing _____.

__ This extension is granted subject to the condition that no additional extensions will be requested by the movant and that the specified document will be filed on or before this new date.

__ Motion to consolidate granted.

__ Motion to supplement or correct the record granted.

__

Sincerely,

MIGUEL J. CORTEZ, Clerk

/s/
Debbie Cordell
Deputy Clerk

cc: Jim L. Williams, Pro Se
Timothy W. Volpe
Roland Williams
Michael J. Davie
David A. Orea, M.D., Pro Se

MOT-2
7/87

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

NO. 88-3444

(Filed 9/27/88)

JIM L. WILLIAMS,

Plaintiff-Appellant,

versus

BAPTIST MEDICAL CENTER,
DAVID W. CHESHIRE,
DAVID L. SALL and
DAVID A. OREA,

Defendants-Appellees.

- -

On Appeal from the United States
District Court for the
Middle District of Florida

- -

O R D E R

Appellant's motion to amend appeal, requesting amendment of the "Statement of the Case" included in appellant's brief is GRANTED and appellant's "statement" is amended to include the statement contained in appellant's motion to amend appeal.

Appellant's motions to include statement and document in appeal, requesting supplementation of the record on appeal with the "First Coast Courier Service, Inc." document, and to include statements

and exhibit in appeal, requesting supplementation with the statement of Doris Trenary, are DENIED because it does not appear that the documents were before the district court.

Appellant's motion to supplement record with a letter from appellant to David A. Orea, dated April 12, 1988, is GRANTED.

Appellant's motion to amend appeal, requesting default judgment as to appellee David A. Orea, is DENIED.

/s/
James C. Hill
UNITED STATES CIRCUIT JUDGE

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

(dated 11/18/88)

JIM L. WILLIAMS,
Plaintiff,

vs. Case No. 88-8-Civ-J-14

BAPTIST MEDICAL CENTER,
DAIVD W. CHESHIRE,
DAVID L. SALL and
DAVID A. OREA,
Defendants.

O R D E R

This case is before the Court on plaintiff's Appeal of the Magistrate's Order, filed August 16, 1988; plaintiff's Appeal of Order Strickening (sic) Amendments and Exhibits from the Record, filed Sept. 20, 1988; plaintiff's Motion to Enter Revised Complaint, filed September 30, 1988; plaintiff's Motion for Default Judgment, filed September 30, 1988; and plaintiff's Motion to Amend Complaint to Clarify Demand for Award of Money Damages, filed October 3, 1988.

This Court dismissed plaintiff's Complaint with prejudice on May 27, 1988. Plaintiff then filed a Request for Appeal of the dismissal on June 1, 1988. The Clerk of the Court mailed all the necessary documents for plaintiff's appeal to the United States Court of Appeal on June 1, 1988.

Once this Court dismisses a case and the case is appealed to the Eleventh Circuit Court of Appeals, the Court loses subject matter jurisdiction of the case. The Court no longer retains the power to act on the case. The Eleventh Circuit Court of Appeals now has appellate jurisdiction over this case, pursuant to 28 U.S.C. §1291. Plaintiff is advised to direct any further correspondence concerning the case to the Eleventh Circuit Court of Appeals.

Accordingly, it is

ORDERED that plaintiff's Appeal of the Magistrate's order, filed August 26, 1988; plaintiff's Appeal of Order

strickening (sic) Amendments and Exhibits from the Record, filed September 20, 1988; plaintiff's Motion to Enter Revised Complaint, filed September 30, 1988; plaintiff's Motion for Default Judgment, filed September 30, 1988; and plaintiff's Motion to Amend Complaint to Clarify Demand for Award of Money Damages, filed October 3, 1988; are denied.

DONE AND ORDERED at Jacksonville, Florida this 18 day of November, 1988.

/s/
Susan H. Black
UNITED STATES DISTRICT JUDGE

Copies to:

Mr. Jim L. Williams
P.O. Box 7083
Orange Park, FL 32073

UNITED STATES OF APPEALS
ELEVENTH CIRCUIT
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

December 28, 1988

MEMORANDUM TO ADDRESSEES LISTED BELOW:

No. 88-3444 WILLIAMS vs. BAPTIST MEDICAL CENTER

D.C. # 88-8-CIV-J-14

The following action has been taken in the referenced case:

XX The enclosed order has been ENTERED.

__ An extension of time has been granted to and including

__ for filing appellant's/petitioner's brief.

__ for filing appellee's/respondent's brief.

__ for filing a reply brief.

__ for filing a petition for rehearing, which is due to be filed in the clerk's office on said date.

__ for filing _____.

__ this extension is granted subject to the condition that no additional extensions will be requested by the movant and that the specified document will be filed on or before this new date.

__ Motion to consolidate granted.

__ Motion to supplement or correct the record granted.

__

Sincerely,

MIGUEL J. CORTEZ, CLERK

By: /s/
Debbie Cordell
Deputy Clerk

cc: Jim L. Williams
Timothy W. Volpe
Roland Williams, Jr.
Michael J. Davie
David A. Orea, Pro Se

UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

NOS. 88-3444 and 88-3966

(Filed 12/28/88)

JIM L. WILLIAMS,
Plaintiff-Appellant,

versus

BAPTIST MEDICAL CENTER,
DAVID W. CHESHIRE,
DAVID L. SALL and
DAVID A. OREA,
Defendants-Appellees.

On Appeal from the United States
District Court for the
Middle District of Florida

O R D E R:

Appellant's motion to stay further appellate proceedings in No. 88-3444 pending briefing in No. 88-3966 is denied.

Appellant's motion to consolidate Nos. 88-3444 and 88-3966 is denied.

/s/
James C. Hill
UNITED STATES CIRCUIT
JUDGE

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 88-3444
Non-Argument Calendar

D.C. Docket No. 88-8

JIM L. WILLIAMS,

Plaintiff-Appellant,

versus

BAPTIST MEDICAL CENTER,
DAVID W. CHESHIRE,
DAVID L. SALL,
DAVID A. OREA,

Defendants-Appellees.

Appeal from the United States District Court
for the Middle District of Florida

(January 13, 1989)

Before HILL, JOHNSON and ANDERSON,
Circuit Judges:

PER CURIAM:

The decision appealed from is AFFIRMED for the reasons stated in the Judgment and Order by the Honorable Susan H. Black, United States District Judge, filed on May 27, 1988, in the Middle District of Florida, Jacksonville Division.

AFFIRMED.

PART II

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE, FLORIDA

Jim L. Williams, Plaintiff-Appellant

vs. AC No. 88-3944
DC No. 88-8-CIV-J-14

Baptist Medical Center,
David Cheshire,
David L. Sall,
David A. Orea,
Defendants-Appellees

MOTION FOR DEFAULT JUDGMENT

I request to this Court that one of the defendants, David Orea, failed to comply with the provisions of the Order Directing Counsel to Confer and Plaintiff to Report issued by the U.S. District Court on 1-5-88 and therefore a Default Judgment for the plaintiff, Jim L. Williams, and against David Orea should be awarded. On page three of the Order Directing Counsel to Confer and Plaintiff to Report, it states that a "Defendant's failure to comply will result in Default Judgment for the plaintiff." Part four of the Order Directing Counsel to Confer and Plaintiff

to Report states "The attorneys for all parties, and/or any unrepresented party, are directed to confer." I tried to personally contact David Orea by telephone in order to comply with Part Four of the Order. However, I was unable to talk to him by phone, instead just leaving messages that I had called in regards to the Order. I then sent a letter, dated April 12, 1988 to David Orea requesting that he notify me by mail as to whether he intended to meet with me in regards to this Order. I received no letter from him in response, prior to May 5, 1988 or after that date. A copy of the original letter, dated April 12th, 1988, was taken to the Clerk's Office, U.S. District Court of Jacksonville by me in order to be filed

with the other material in this complaint. Attached to this motion are exhibits supporting my motion for a Default Judgment.

/s/

Jim L. Williams
P.O. Box 7053
Orange Park, FL 32073

September 30, 1988

Exhibits 1, 2 and 3

April 12, 1988

RE: Case No. 88-8-CIV-J-14

United States District Court
Middle District of Florida

Plaintiff: Jim L. Williams

Defendants: Baptist Medical Center
David Cheshire
David Sall
David Orea

To David Orea:

In Part Four of the Order Directing Counsel to Confer and Plaintiff to Report, attorneys or any unrepresented party are directed to confer. This is to be done by May 5, 1988. Since I have been unable to make arrangements by phone to meet with you or your attorney, I am sending this letter requesting that you notify me by mail whether you or your attorney intend to meet with me. If so, then state how arrangements for the meeting can be made.

/s/_____
Jim L. Williams
P. O. Box 7083
Orange Park, FL 32073

CERTIFICATE OF SERVICE

I certify that copies of the foregoing letter have been sent to Michael Davie, Attorney for David Sall, P. O. Drawer 2069, Jacksonville, Florida 32203; Timothy Volpe, Attorney for Baptist Medical Center, 1800 Florida National Bank Tower, P. O . Box 53315, Jacksonville, Florida 32201-3315; Roland Williams, Attorney for David Cheshire, 601 Blackstone Building, 233 E. Bay Street, Jacksonville, Florida 32202; and to David Orea, 4237 Salisbury Road, Suite 407, Jacksonville, FL 32216, this 12th day of April, 1988.

/s/ _____
Jim L. Williams
P. O. Box 7083
Orange Park, FL 32073

FIRST COAST COURIER SERVICE, Inc.
2121 Flesher Avenue
Jacksonville, Florida 32207
(904) 398-6396
(904) 396-9419

Jim L. Williams
PLAINTIFF(S)
vs.
Baptist Medical Center, etc., et al
DEFENDANT(S)

CASE NO. 88-8-CIV-J-14

COURT: United States District Court, Duval County, Florida

SERVE: Dr. David Orea

ADDRESS: 4237 Salisbury Road, Suite 407, Jacksonville, Florida

ATTORNEY: Jim L. Williams
P. O. Box 7083
Orange Park, FL

Before me the undersigned authority, personally appeared Donnie Kreutz, who is over the age of eighteen years and has no interest in this case, who is an authorized employee of First Coast Couriers of Jacksonville, Inc. and who, being by me first duly sworn, deposes and says, that I

SERVICE Received this Order Directing Counsel to Confer and Plaintiff to Report on the 12th day of January A.D. 1988, and served the same on

[X] Dr. David Orea (individual) the within-named (Defendant) at 2:15 o'clock P.M. on the 12th day of January A.D. 1988 in Duval County, Florida.

Individual

[ ] By delivering a copy of this ____ _____ to the within-named (Witness-Defendant) _____, personally at (his-her) usual place of business-abode) and informing (him-her) of their content, with the date and hour of service endorsed thereon by me, and at the same time rendering check in the amount of _____ as per diem and mileage.

SUBSTITUTE [x]

By leaving a copy of this Order Directing Counsel to Confer and Plaintiff to Report at (his-her) usual place of business-abode) with some person, who is fifteen years of age or older, to-wit: Amelia Orea, Office Manager, and informing that person of their content, with the date and hour of service endorsed thereon by me and at the same time tendering a check in the amount of _____ as per diem and mileage.

CORPORATE [ ]

By delivering a copy of the ___ _____ with the date and hour of service endorsed thereon by me to: _____ as _____ of said corporation in the absence of any appropriate officer as defined in F.S. 48.081.

NON-SERVICE

[ ]

I hereby return this _____

_____

on the reason that after diligent search and inquiry the within-named (witness-defendant) could not be found in Duval County, Florida _____

SERVICE FEE: $12.00

TIME:

MILEAGE:

/s/_____
Donnie Kreutz
Special Process Server,
Duly Appointed and
Qualified Pursuant to
Florida Statute 48 021(2)

Donnie Kreutz

FCC

First Coast Couriers, Inc.
2121 Flesher Avenue
Jacksonville, Florida 32207
(904) 354-90

On August 31, 1988 I, Doris Trenary, called the office of Dr. David Orea and talked to Lisa who advised David Orea and Amelia Orea are married. She also advised Amelia Orea no longer worked for Dr. David Orea.

/s/_____

Doris Trenary

CERTIFICATE OF SERVICE

I certify that copies of the foregoing have been sent to Michael Davie, P.O. Drawer 2069, Jacksonville, Florida 32203; Timothy Volpe, attorney for Baptist Medical Center, 1800 Florida National Bank Tower, P. O. Box 53315, Jacksonville, Florida 32201-3315; Scott Cleary/Roland Williams, attorneys for David Cheshire, 601 Blackstone Building, 233 E. Bay St., Jacksonville, FL 32202; and to David Orea, 4237 Salisbury Road, Suite 407, Jacksonville, FL 32216. This 30th day of September, 1988.

/s/

Jim L. Williams
P. O. Box 7083
Orange Park, FL

PSYCHIATRIC ASSOCIATES, P.A.

David L. Sall, M.D.
Diplomate, American
Board of Psychiatry
and Neurology

March 9, 1987

J. Eugene Glenn, M.D.
Chairman, Grievance Committee
Duval County Medical Society
555 Bishop Gate Lane
Jacksonville, FL 32204

RE: Mr. Jim L. Williams
a/k/a William Suk

Dear Dr. Glenn:

This young man is seriously disturbed. He has had precious little contact with me. His threats of violence provoked his hospitalization at the Intensive Care facility of Baptist Medical Center Psychiatry Unit.

I invited a new physician to become his attending when he questioned my recommendation to remain hospitalized.

The Haldol injection which was allegedly given during the interview, did not influence my decisions.

If I can be of further assistance, please don't hesitate to call.

Sincerely,

/s/

David L. Sall, M.D.

dg

1357 Palm Ave.
Jacksonville, FL 32207
(904) 396-2477

1543 Kingsley Ave., #14
Orange Park, FL 32073
(904) 264-4998

Diplomate, American Board of Psychiatry and Neurology
Practice Limited to Psychiatry

DAVID A. OREA, MD.P.A.
University Professional Center
4131 University Blvd., South
Jacksonville, Florida 32216

Phone 731-7274

March 30, 1987

J. Eugene Glenn, M.D.
Chairman
Grievance Committee
Duval County Medical Society
555 Bishop Gate Lane
Jacksonville, FL 32204

Dear Doctor Glenn:

In reference to the complaint against Doctors David Sall, David Cheshire and myself, from Mr. Jim L. Williams, I understood the Florida Medical Association had dismissed the case and for that reason I thought a reply was not necessary.

In any event, after thoroughly reviewing Mr. Jim L. Williams' or Mr. William Suk's rambling, and clearly paranoid letter, I fail to see what Mr. Williams is complaining about.

On 10/17/83, I was asked to see Mr. Williams for a second Psychiatric Opinion, for involuntary hospitalization. After a complete Psychiatric interview and a review of his medical records, I concurred with his treating Physician that he was in need of Psychiatric Hospitalization. My impression was that Mr. Suk was paranoid and delusional, and that he believed he had been given drugs to render him impotent. Information contained in the medical record also indicated that Mr. Suk had made homicidal threats to his parents.

Frankly speaking I do not understand why you give credence to the allegations of a man who is clearly paranoid.

As you know, Mr. Williams' allegations were dismissed not only by the Florida Medical Association, but also by the Department of Health and Rehabilitative

Services, and the Department of Professional Regulations.

I only hope this does not set a precedent and you will find yourselves investigating every allegation of every paranoid patient being treated by the Duval County Psychiatrists.

Sincerely,

/s/_____
David A. Orea. M.D.

DAO:mrk

DAVID W. CHESHIRE, M.D., P.A.
Suite 203, Samuel M. Wells Medical Complex
3599 University Boulevard, S.
Jacksonville, Florida 32216

Telephone 399-3180

(Practice Limited to Psychiatry)

May 4, 1987

J. Eugene Glenn, M.D.
Chairman, Grievance Committee
Duval County Medical Society
555 Bishop Gate Lane
Jacksonville, FL 32204

Re: Jim L. Willaims

Dear Dr. Glenn:

I have received a copy of a complaint from the above-named.

I am unable to locate a record in my office for a patient by this name.

However, I have treated a patient by another name with similar symptoms.

Sincerely yours,

/s/ _____
David W. Cheshire, M.D.

ef

SUPREME COURT OF THE UNITED STATES
Washington, D.C.

Jim L. Williams, Pro Se,

Plaintiff-Appellant

vs.

Baptist Medical Center,
David W. Cheshire,
David L. Sall,
David A. Orea,

Defendants-Appellees

On Appeal from U.S. Court of Appeals, Eleventh Circuit, Atlanta, Georgia, Appeals Court No. -88-3444.

Notorized Statement Detailing Mailing of "Notice of Appeal to Supreme Court"

I, Jim L. Williams, swear that the "Notice of Appeal to Supreme Court" and the "Certificate of Service" dated January 26, 1989, as shown by the following attached copies, were mailed to the United States Court of Appeals, Eleventh Circuit, 56 Forsyth Street, N.W., Atlanta, Georgia 30303; and copies were mailed to Michael Davie, Timothy Volpe, Roland Williams, David Orea, and to Clerk, Supreme Court

of the United States in a manner as indicated in the following attached "Certificate of Service" dated January 26, 1989. They were mailed at a United States Post Office in Jacksonville, Florida on January 26, 1989.

/s/ _____
Jim L. Williams
P. O. Box 7083
Orange Park, FL 32073
January 27, 1989

Signed before me this
27th day of January, 1989
s/s _____
Lafayette Moorer
Notary Public, State of Florida
My Commission Expires Jan. 28, 1989

UNITED STATES COURT OF APPEALS
Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Jim L. Williams,
Plaintiff-Appellant

vs.

Baptist Medical Center
David W. Cheshire
David L. Sall,
David A. Orea,
Defendants-Appellees

Appeals Court No. -88-3444

District Court No. 88-8-CIV-J-14

NOTICE OF APPEAL TO SUPREME COURT

Notice is hereby given that Jim L. Williams, the Plaintiff-Appellant, above-named, hereby appeals to the Supreme Court of the United States from the Decision and/or Judgment entered in this action on January 13, 1989 that affirms the Judgment and Order by Susan Black, United States District Judge, filed in May, 1988, in the Middle District of Florida, Jacksonville, Florida.

This Appeal is taken pursuant to United States Code Title 28, Section 1254(1).

/s/ _____

Jim L. Williams
P. O. Box 7083
Orange Park, FL
January 26, 1989

CERTIFICATE OF SERVICE

I, Jim L. Williams, Appellant herein, certify that on January 26, 1989 I served a copy of foregoing attached Notice of Appeal to Supreme Court on Baptist Medical Center, David W. Cheshire, David L. Sall, and David A. Orea, Appellees herein, by mailing copies in duly addressed envelopes with first class postage prepaid to Michael Davie, Attorney for David L. Sall at P.O. Drawer 2069, Jacksonville, Florida 32203; to Timothy Volpe, Attorney for Baptist Medical Center, 1800 Florida National Bank Tower, P.O. Box 53315, Jacksonville, Florida 32201-3315; to Roland Williams, Attorney for David Cheshire, 601 Blackstone Building, 233 E. Bay Street, Jacksonville, Florida 32202; and to David Orea, 4237 Salisbury Road, Suite 407, Jacksonville, Florida 32216. A copy of the foregoing was also

sent to Clerk, Supreme Court of the United States, 1 Street, N.E., Washington, D.C.

/s/

Jim L. Williams
P. O. Box 7083
Orange Park, FL

January 26, 1989

CERTIFICATE OF SERVICE

I, Jim L. Williams, Appellant herein, hereby certify that on January 27, 1989, I mailed a copy of the foregoing attached "Notarized Statement Detailing Mailing of "Notice of Appeal to Supreme Court"" and the attached documents to Michael Davie, Attorney for David L. Sall at P.O. Drawer 2069, Jacksonville, Florida 32203; to Timothy Volpe, Attorney for Baptist Medical Center, 1800 Florida National Bank Tower, P.O. Box 53315, Jacksonville, Florida 32201-3315; to Roland Williams, Attorney for David Cheshire, 601 Blackstone Building, 233 E. Bay Street, Jacksonville, Florida 32202; and to David Orea, 4237 Salisbury Road, Suite 407, Jacksonville, Florida 32216. The foregoing was also sent to the United States

Court of Appeals, Eleventh Circuit, 56 Forsyth Street, NW, Atlanta, GA 30303.

/s/

Jim L. Williams
P.O. Box 7083
Orange Park, FL
January 27, 1989

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Case #88-8-CIV-J-14

DEMAND FOR ACTION FOR VIOLATION OF CIVIL RIGHTS

DEMAND FOR ACTION FOR VIOLATION OF TITLE 42, SECTION 9501, BILL OF RIGHTS

PLAINTIFF DEMANDS TRIAL BY JURY

(Filed January 4, 1988)

Plaintiff: Jim L. Williams, P.O. Box 7083, Orange Park, FL

Defendants: Baptist Medical Center, 800 Prudential Drive, Jacksonville, Florida 32207

David W. Cheshire, Suite 203, Samuel Wells Complex, 3599 University Blvd. S. Jacksonville, FL 32216.

David L. Sall, 1357 Palm Ave., Jacksonville, FL

David A. Orea, 4131 S. University Blvd. Jacksonville FL.

This action is brought pursuant to Title 42, Section 1985(b) which states that when two or more persons conspire to deny one the ability to testify freely in court then a civil rights violation

has occurred and the United States District Court has jurisdiction as stated in Title 42, Section (4). My ability to testify freeely was denied by violations of Title 42, Section 9501, parts D(i), F, G, J, K, and N.

The court hearing in question was an involuntary medical commitment hearing. I had been picked up by police and committed to Baptist Hospital on October 20, 1983 under the Baker Act law. The court hearing took place on November 2, 1983.

In Baptist Hospital, on October 21, 1983, I was involuntarily injected with a drug that impaired my normal biological functioning, including a severe impairment of my cognitive and intellectual functioning. The effect of the drug was so profound that the cognitive and intellectual impairment still existed at the time of the court hearing on November 2, 1983. This impairment along with other

factors which I will briefly describe affected my ability to testify freely. The injuction, given against my will, was based on fictitious accounts of my behavior by a Baptist Hospital employee. The fictitious account of my behavior was in response to my occasional requests over a period of hours to see a doctor and to make a phone call to obtain legal counsel. Those requests were done in a normal manner and were not unusual considering I had been in the hospital security area overnight without being told why I was picked up. At the time I was forced to take the injection, I had returned to the room I had been assigned after making the requests and was sitting quietly on the bed reading a magazine. David Sall was the hospital psychiatrist during this period of time. Although David Sall had been on the ward earlier in the day and was aware of my presence, he talked to me

only after I had been injected with the drug. At that time I was so incapacitated from the injection that I could not raise my head off the pillow for more than approximately two or three seconds. The injection not only impaired my physical ability to testify freely at the court hearing, but the injection also was a life threatening influence on my willfulness to testify freely at the court hearing. The reason for that influence is as follows: During the period prior to the court hearing, a David Cheshire had tried to get me to sign a form giving my consent to psychiatric treatment. When I had refused, he verbally berated me stating in reference to me such things as "Oh you are so sick, sick, sick," in a manner that could easily be interpreted as hostile as well as sarcastic. After that he showed me his written orders to any hospital shift employee to give me another

injection of the drug, in twice the amount of what I was previously injected with, anytime my behavior did not meet with their approval. Since I had been injected once before for no legitimate reason, I was inhibited from testifying freely in court for fear for what would happen if I lost the court hearing and had to go back to the hospital. According to hospital records the drug I was injected with was Haldol. I am now aware of at least one incident in a Florida hospital where a patient died immediately after being injected with the drug haldol. Also according to a recent report, the FDA has stated that haldol could prove fatal even if taken orally. Whether I was injected with haldol or some other drug as or more toxic, I do not know, but the effects of the injection were clearly life-threatening. During the

days preceding the court hearing, some of the hospital employees did threaten me on occasion with an injection, including the night before the court hearing. That night I was laying in bed and an employee came into the room and stated more than once that she thought I should have an injection. I had never previously been threatened with an injection when I was in bed at night. During the days preceding the court hearing and at the times of these threats, I was still suffering from the one injection I had been given. Also, the injection physically impaired my efforts to obtain legal counsel and prepare my request for immediate release at the court hearing.

During the thirteen days preceding the court hearing, I was kept in a small high security area called the ICU. Only once in thirteen days for ten or fifteen minutes was I allowed out of that area.

The reason I was kept in that area was because I had refused to sign a voluntary medical treatment form that David Cheshire had wanted me to sign. The one time I was allowed to go outside the ICU was during a time Cheshire had asked me to sign the voluntary consent form. He stated that if I signed the form he would immediately allow me to stay outside the ICU on the regular psychiatric ward where there was much more space. When I refused to sign the form, he berated me as I stated previously. During the thirteen days preceding the court hearing, I stayed in the ICU longer than any other individual. After the court hearing in which I was involuntarily forced to go back to Baptist Hospital, I was immediately allowed to go on the regular psychiatric ward. After six weeks at Baptist Hospital, David Cheshire finally allowed me to leave the hospital. The fact that I had limited

insurance coverage may or may not have been the sole reason why I was allowed to leave.

Before the court hearing David Cheshire had asked David Orea to give a second opinion on the involuntary placement form. On the form Orea stated that I thought I was impotent. During the one brief interview with me he asked me if I was impotent and I stated no. At no time did I say I was impotent or give him any indication that I thought I was. Yet, he irresponsibly stated I thought I was on the second opinion form for involuntary placement.

At one point during the six week hospital placement another patient threatened to attack me with a pool cue stick. A hospital employee who was watching the incident did nothing but watch passively. There are other relevant facts of this

complaint that I will not detail at this time.

I demand money damages in the amount of $1,200,000.00. I demand injunction relief from being committed at any time in the future under the Baker Act.

/s/

Jim L. Williams
P. O. Box 7083
Orange Park, FL

December 30, 1987

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Case No. 88-8-CIV-J-14

(Filed January 7, 1988)

DEMAND FOR ACTION FOR VIOLATION OF CIVIL RIGHTS

DEMAND FOR ACTION FOR VIOLATION OF TITLE 42, SECTION 9501, BILL OF RIGHTS

PLAINTIFF DEMANDS TRIAL BY JURY

Plaintiff: Jim L. Williams

Defendants: Baptist Medical Center
David W. Cheshire
David L. Sall
David A. Orea

AMENDMENTS TO ORIGINAL COMPLAINT:

1. This complaint is also brought pursuant to Title 42, Section 1983.

2. Fictitious accounts of my behavior, while I was committed and waiting for the court hearing, exist in the "nursing process observations" forms. These forms were filled out by shift employees, who had authority by David Cheshire, to order me to be involuntarily injected with haldol. Also,

evidence of hostility towards me by a Baptist Hospital employee exists on the first line to be filled out on the "Multiphasic Nursing Assessment" form. This form was filled out when I first arrived at the ICU at Baptist Hospital.

3. A fictitious account of my behavior by some painters employed by Baptist Hospital resulted in my being forced by other employees to return to the ICU against my will and not allowed to leave until I took a tranquilizer. This occurred after the court hearing.

4. In 1987 I filed a complaint with the Judicial Committee of the Florida Medical Association concerning the actions of David Sall, David Orea, and David Cheshire in this involuntary commitment. In response to this complaint David Orea and David

Sall implied that I was presently mentally disturbed, although I had not personally talked with them or seen them since 1983.

5. In February 1985, I filed a complaint with the state of Florida, Department of Health and Rehabilitiative Servies concerning the facts stated in this complaint. The complaint investigator, Charles Welch, stated in his summary report of his investigation of my allegations that I suffered from an "apparent illness" although he had never talked to me personally. He did state he talked to two employees of Baptist Hospital including the head nurse in charge of the Psychiatric Unit at Baptist Hospital.

6. In 1984 I filed a complaint with the Department of Professional

Regulations concerning the involuntary commitment. According to that department there was no violation of relevant statutes of rules.

7. In the original complaint, 88-8-CIV-J-14, filed on January 4, 1988 I stated in the fifth paragraph in reference to David Orea "At no time did I say I was impotent or give him any indication that I thought I was. Yet he irresponsibly stated I thought I was on the second opinion form for involuntary placement." This statement is in reference to David Orea's statement on the second opinion form for involuntary placement which reads "(Believes) he has been given drugs to render him impotent." Since David Orea's statement can be interpreted to mean that I said I thought I was not impotent but just given

drugs to render me impotent, I would like to state that not only did I not say I was impotent, but that I also never stated that I thought I was given drugs to render me impotent or gave him any indication that I thought I had been given drugs to render me impotent.

/s/
Jim Williams
P.O. Box 7083
Orange Park, FL

January 7, 1988

(TIME STUDY CASE)
(Record Time Spent by Judge or Magistrate)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Case No. 88-8-CIV-J-14

DEMAND FOR ACTION FOR VIOLATION OF CIVIL RIGHTS

DEMAND FOR ACTION FOR VIOLATION OF TITLE 42, SECTION 9501, BILL OF RIGHTS

PLAINTIFF DEMANDS TRAIL BY JURY

Plaintiff: Jim L. Williams,
P. O. Box 7083
Orange Park, FL

Defendants: Baptist Medical Center
800 Prudential Drive
Jacksonville, FL 32207

David W. Cheshire, Suite 203,
Samuel Wells Complex,
3599 University Blvd. S.
Jacksonville, FL

David L. Sall, 1357 Palm Ave.
Jacksonville, FL

David A. Orea
4131 S. University Blvd.
Jacksonville, FL

(Filed January 4, 1988)

AMENDMENT TO ORIGINAL COMPLAINT

(b) Amendment is that Plaintiff Jim L. Williams' legal name during the period of October 20, 1983 to December 1983 was

William G. Suk. Commitment documents would show the name of William G. Suk.

/s/

Jim L. Williams
P.O. Box 7083
Orange Park, FL

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Case No. 88-8-CIV-J-14

REQUEST TO AMEND ORIGINAL COMPLAINT REGARDING CASE 88-8-CIV-J-14

Plaintiff: Jim L. Williams

Defendants: Baptist Medical Center
David W. Cheshire
David L. Sall
David A. Orea

(Filed April 8, 1988)

In order to clarify the original Complaint filed on January 4, 1988, I would like to file two amendments stating that the amount of damages of $1,200,000. demanded in the last sentence of that complaint consists of $600,000.00 for all personal injuries from or resulting from the incident and $600,000.00 for punitive damages. Enclosed with this letter is the amendments as I would file them.

In a meeting on April 7, 1988 with attorneys representing Baptist Medical

Center, David Cheshire, and David Sall, I stated that I would ask that the total damages be assessed in the manner as stated in these proposed amendments. This meeting was in response to Part Four of the Order Directing Counsel to Confer and Plaintiff to Report dated 1-5-88. I have not yet talked with David Orea or his attorney as directed by this order.

/s/
Jim L. Williams
P. O. Box 7083
Orange Park, FL

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE, FLORIDA

Jim L. Williams,

Appellant, Plaintiff

vs.

Baptist Medical Center
David Cheshire
David L. Sall
David A. Orea,

Appellees, Defendants

A.C. Case No. 88-3444
D.C. Fase No. 88-8-CIV-J-14

MOTION TO AMEND COMPLAINT TO CLARIFY DEMAND FOR AWARD OF MONEY DAMAGES

In the Answer Brief of Appellee, David Cheshire, M.D. filed with the Court of Appeals on September 15, 1988 by the attorney for Defendant David Cheshire, the attorney states on page seven of that brief that no relief is demanded in my complaint or amendments which has relevance to the claim and facts alleged. The attorney on page eight, goes on to state that my complaint has no standing because I made no claims for injury.

In a pretrial meeting ordered by Judge Black in the Order Directing Counsel to Confer and Plaintiff to Report, I stated to the attorneys present that the money damages of $1,200,000.00 demanded in the complaint would be divided into $600,000.00 for punitive damages (being equally divided among the four defendants) and $600,000.00 for injuries suffered. After a short discussion, none of the attorneys present requested any further clarifications. This meeting was recorded at the request of Judge Black. After the meeting, on April 8, 1988, I filed amendments to the original complaint stating that the money damages of $1,200,000.00 demanded consisted of $600,000.00 for personal injury and $600,000.00 for punitive damages. The punitive damages being divided among the defendants in amounts of $150,000.00. These amendments were stricken from the record by Magistrate

Schlesinger. Also, personal injury was indicated in the original complaint and amendments, and in the exhibits that were stricken by Magistrate Schlesinger. However, since the attorney for the defendant, Cheshire, raised this issue in his Brief to the Court of Appeals, I request that the following clarifying amendments be made part of my original complaint. The following amendment twelve (12) was not included in the amendments struck by Magistrate Schlesinger's order; therefore, I make this motion since I have not already appealed the striking of amendment twelve (12).

Amendments to the Original Complaint:

10) Money damages amounting to $1,200,000 as demanded by plaintiff consist of $600,000 for personal injury compensation and $600,000 for punitive damages.

11) Plaintiff asks that the $600,000 for punitive damages be divided equally in amounts of $150,000 among the four defendants.

12) Personal injuries as referred to in the above amendment ten (10) consist of all physical injuries resulting from the insulting and injurious incident described in the complaint. Physical injuries resulting from the incident include: the bringing out of remission or reversal of remission of a medical problem that has been associated with tumors of the cancerous type during my confinement at Baptist Hospital; the physically enfeebling effect of the druggings and confinement; and the resulting inability to pursue a normal life once released.

CERTIFICATE OF SERVICE

I certify that copies of the foregoing have been sent to Michael Davie, P.O. Drawer 2069, Jacksonville, Florida 32203; Timothy Volpe, attorney for Baptist Medical Center, 1800 Florida National Bank Tower, P.O. Box 53315, Jacksonville, Florida 32201-3315; Scott Cleary/Roland Williams, attorneys for David Cheshire, 601 Blackstone Building, 233 E. Bay St., Jacksonville, FL 32202; and to David Orea, 4237 Salisbury Road, Suite 407, Jacksonville, FL 32216.

/s/
Jim L. Williams
P. O. Box 7083
Orange Park, FL 32073

October 3, 1988

CERTIFICATE OF SERVICE

I certify that copies of the foregoing have been sent to Michael Davie, attorney for David Sall, P.O. Drawer 2069, Jacksonville, Florida 32203; Timothy Volpe, attorney for Baptist Medical Center, 1800 Florida National Bank Tower, P.O. Box 53315, Jacksonville, Florida 32201-3315; Roland Williams, attorney for David Cheshire, 601 Blackstone Building, 233 E. Bay Street, Jacksonville, Florida 32216, this 4th day of April, 1989 by mail, first class.

/s/
Jim L. Williams
P. O. Box 7083
Orange Park, FL 32073

CERTIFICATE OF SERVICE

I certify that copies of the foregoing have been sent to Michael Davie, attorney for David Sall, P.O. Drawer 2069, Jacksonville, Florida 32203; Timothy Volpe, attorney for Baptist Medical Center, 1800 Florida National Bank Tower, P. O. Box 53315, Jacksonville, Florida 32201-3315; Roland Williams, attorney for David Cheshire, 601 Blackstone Building, Jacksonville, Florida 32202; and to David Orea, 4237 Salisbury Road, Suite 407, Jacksonville, Florida 32216, this 9th day of May, 1989 by mail, first class.

Jim L. Williams

Jim L. Williams
P.O. Box 7083
Orange Park, FL 32073

FILED
JUN 12 1989
JOSEPH F. SPANIOL, JR.
CLERK

No. 88-1833

In The

Supreme Court of the United States

October Term, 1988

JIM L. WILLIAMS,
Petitioner,
v.

BAPTIST MEDICAL CENTER,
DAVID W. CHESHIRE,
DAVID L. SALL
DAVID A. OREA,
Respondents.

BRIEF OF RESPONDENT BAPTIST MEDICAL CENTER IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Timothy W. Volpe
Counsel of Record
Smith & Hulsey
1800 Florida National
Bank Tower
Post Office Box 53315
Jacksonville, FL 32201-3315
(904) 359-7700

Attorneys for Respondents

Questions Presented

1. Whether an appropriate basis exists for this Court to grant the Petition for Writ of Certiorari.

2. Whether the United States District Court properly dismissed Mr. Williams' complaint, as amended, for failure to state a cause of action upon which relief can be granted.

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STATUTES INVOLVED

Title 42, United States Code, Sections 1983, 1985(2) of the Civil Rights Act, and Title 42, United States Code, Section 9501.

STATEMENT OF THE CASE

On January 4, 1988, petitioner Jim L. Williams ("Williams"), filed his complaint in the United States District Court for the Middle District of Florida, Jacksonville Division, naming Southern Baptist Hospital of Florida, Inc., doing business as Baptist Medical Center ("BMC"), a private not-for-profit corporation, and several physicians in private practice as defendants. He filed Amendments to Original Complaint on January 7, 1988. Combined, these pleadings allege that while Mr. Williams was a patient in BMC's psychiatric ward, he was given an injection that impaired his functioning

during his commitment hearing held thirteen days later. The actions Mr. Williams claims gave rise to his claims all are alleged to have occurred between October and December, 1983.

Mr. Williams attempted to state a claim under Title 42, United States Code, §1983 and §1985(2) of the Civil Rights Act and Title 42, United States Code, §9501, commonly known as the "Mental Health Bill of Rights." BMC timely filed its motion to dismiss on January 25, 1988.

On April 8, 1988, Mr. Williams filed his Request to Amend Original Complaint and on April 21, 1988, filed another Request to Amend Original Complaint and Request to Enter Exhibits Relevant to Complaint. United States Magistrate Harvey E. Schlesinger entered an order on April 25, 1988, striking the requests for failure to comply with local rules 3.01 and 4.01, which prescribe the procedures for filing

motions and amending pleadings in the Middle District of Florida.

On May 26, 1988, the District Court entered an order granting the motion to dismiss, dismissing the complaint with prejudice and ordering the clerk of the court to enter judgment dismissing the case with prejudice. The clerk of the court entered judgment in accordance with the order on May 27, 1988. Mr. Williams filed his notice of appeal on or about June 1, 1988.

The applicable standard of review on appeal to the Eleventh Circuit Court of Appeals was de novo review. On January 13, 1989, the Eleventh Circuit affirmed the District Court's judgment. On January 26, 1989, Mr. Williams filed his notice of appeal to the Supreme Court of the United States, and on May 9, 1989, filed his Petition for Writ of Certiorari.

SUMMARY OF THE ARGUMENT

Mr. Williams has not alleged any basis upon which this court should grant his Petition for Writ of Certiorari. Mr. Williams' petition is devoid of any suggestion that there is a conflict between the lower courts' decisions and a decision of this Court or any court. Furthermore, Mr. Williams' petition demonstrates that the grounds upon which he appeals can have no application outside the unique and peculiar circumstances of his case. The lower courts reviewed the merits of Mr. Williams' complaint and determined that it could not state a claim upon which relief can be granted. Accordingly, Mr. Williams' Petition for Writ of Certiorari should be denied.

ARGUMENT

I. No basis exists for this Court to accept review of this case.

Rule 17 of the Rules of the Supreme Court provides "review on writ of certiorari is not a matter of right, but of judicial discretion, and will be granted only when there are special and important reasons therefor." The Eleventh Circuit's decision affirming the District Court's dismissal of this action is not of special importance to the public and it does not conflict with any decision of this Court or of any circuit court.

In his petition, Mr. Williams fails to suggest any reason cognizable under Rule 17 why this Court should exercise its jurisdiction in this case. He has not alleged, and cannot allege, any decisional conflict. Mr. Williams also makes no attempt to demonstrate, nor can he

show any "special or important" reason for this Court to grant his petition. The lower courts based their decisions upon straightforward issues pertaining to the applicable statute of limitations and the sufficiency of Mr. Williams' complaint to state a claim under 42 U.S.C. Sections 1983, 1985(2) and 9501.

Although they considered each of the claims with the liberality properly accorded to pro se civil rights complaints, the lower courts nonetheless determined that they failed to state a claim upon which relief could be granted.

II. The District Court properly dismissed with prejudice Mr. Williams' complaint, as amended, for failure to state a claim upon which relief can be granted.

A. Mr. Williams' complaint, based on Title 42, United States Code, Sections 1983 and 1985(2), was barred by the statute of limitation.

The statute of limitations for actions filed under 42 U.S.C. Sections 1983 and 1985(2)

is the applicable state statute of limitations for personal injury tort actions. Wilson v. Garcia, 471 U.S. 261 (1985). The state statute applicable to this case is Florida Statutes §95.11(3)(o), which provides a four year limitations period. Marquis v. United States Sugar Corporation, 652 F. Supp. 598, 602 (S.D. Fla. 1987). The complaint alleges that the actions at BMC upon which the claims are grounded occurred more than four years prior to the filing of this action. Consequently, Mr. Williams' claims against BMC under 42 U.S.C. Sections 1983 and 1985(2) were properly dismissed with prejudice as untimely.

B. Even if the claim was not time-barred Mr. Williams did not and can not allege the factual elements necessary to sustain a claim under 42 U.S.C. Section 1983.

In order to allege a cause of action under Section 1983, Mr. Williams would have had to

plead that (a) BMC deprived him of a right secured to him by the Constitution or federal law, and (b) the deprivation occurred under color of state law. Simms v. Jefferson Downs, Inc., 611 F.2d 609, 611 (5th Cir. 1980)(citing cases).

Mr. Williams alleges that private physicians gave him drugs against his will while he was being treated in a private psychiatric facility. Nothing in the amended complaint suggests, nor could it, that any of the medical decisions made in treating Mr. Williams were influenced by state regulation nor that they were made by anyone for whom the state is responsible.

BMC is not a state actor. Rather, BMC's actions were the result of "medical judgment[s] 'made by private parties according to professional standards that are not established

by the state.'" Lanceford v. District of Columbia Board of Education, 745 F.2d 1577, 1581 (D.C. Cir. 1984), citing Blum v. Yaretsky, 457 U.S. 991, 1008 (1982). See also, Jarrell v. Chemical Dependency Unit of Acadiana, 791 F.2d 373 (5th Cir. 1986). Accordingly, even if the claims were not barred by the applicable statute of limitations, Mr. Williams could not state a claim under 42 U.S.C. 1983.

C. Even if the claim was not time-barred, Mr. Williams did not and can not allege the factual elements necessary to sustain a claim under 42 U.S.C. Section 1985.

In alleging a civil rights conspiracy under Section 1985, Mr. Williams relies on the first clause of Section 1985(2) which makes unlawful conspiracies "to deter, by force, intimidation or threat, any party or witness in any court of the United States from attending such court, or

from testifying to any matter pending therein, freely, fully and truthfully . . . ." The statutory language "any court of the United States" refers to federal, not state courts. Kimble v. D. J. McDuffie, Inc., 648 F.2d 340, 347 (5th Cir. 1981), cert. denied, 454 U.S. 1110 (1981).

Mr. Williams alleges that he was drugged against his will while a psychiatric patient at BMC, resulting in the impairment of his biological functioning during his state court involuntary commitment proceeding conducted under state law. Mr. Williams did not and could not allege that he was deterred from testifying in federal court. Accordingly, his claims against BMC under Section 1985(2) were properly dismissed with prejudice for failure to state a claim upon which relief can be granted.

D. **The allegations of the complaint under 42 U.S.C. Section 9501 fail to state a claim upon which relief can be granted.**

Section 9501 does not create a private right of action. The congressional intent of Section 9501 is made clear by its preamble, which states:

> "It is the sense of the Congress that each State should review and revise, if necessary, its laws to ensure that mental health patients receive the protection and services they require; and in making such review and revision, should take into account the recommendations of the President's Commission on Mental Health and the following . . ."

Section 9501 continues by listing certain "rights" which "should be accorded" persons admitted to mental health programs or facilities.

There is nothing in Section 9501 evidencing any congressional intent to confer substantive legal rights, much less provide a private right of action. Such intent being absent, Section 9501 is not properly the basis for a private cause of action. Cf., Pennhurst State School and Hospital v. Halderman, 451 U.S. 1 (1981) (holding that the provisions of the Developmentally Disabled "Bill of Rights" provisions, even more strongly worded than those of Section 9501, do not create enforceable rights and obligations). Accordingly, Mr. Williams' claims under Section 9501 were properly dismissed.

CONCLUSION

This court should not grant Mr. Williams' Petition for Writ of Certiorari. Mr. Williams has cited no decisional conflict with any court and his petition clearly demonstrates that his case has no import outside the narrow confines of his case. As such, there is no "special and important reason" for granting Mr. Williams' petition.

In reviewing Mr. Williams' complaint, the District Court went beyond the finding that the claims made were barred by the statute of limitations and determined that under no circumstances could Mr. Williams state a claim for relief. This Court's denial of Mr. Williams' petition is necessary to finally put

this matter to rest. The petition should be denied.

Respectfully submitted,

Timothy W. Volpe
Thomas C. Wagner

Florida Bar No. 0358185
Florida Bar No. 0717789
1800 Florida National
Bank Tower
Post Office Box 53315
Jacksonville, FL 32201-3315
(904) 359-7700

Counsel for Respondents

App. 1

EXHIBIT A

BAPTIST MEDICAL CENTER'S
SHAREHOLDER
AFFILIATES AND SUBSIDIARIES
(excluding wholly owned subsidiaries)

Baptist Health, Inc.
Suncare Plans, Inc.
BMC of Georgia, Inc.
International Medical Care
Northeast Florida Breast Center, Inc.
Suncare HMO, Inc.
Southside Redevelopment Area, Inc.
MRI Shared Services
Baptist Medical Center of Port St. Joe, Inc.
United Urology
Baptist Home Health Services, Inc.
Surgicare Outpatient Center of Jax., Inc.
Jacksonville Surgery Center, Inc.
K & A Medical
Greenbrier Horizon Club Joint Venture

CERTIFICATE OF SERVICE

I hereby certify that forty copies of the foregoing have been furnished by first class mail, postage prepaid, to the Clerk of the Supreme Court, One First Street, N.E., Washington, D.C. 20543, and three copies have been furnished by first class mail, postage prepaid, to the plaintiff-appellant Jim L. Williams, P.O. Box 7083, Orange Park, Florida 32073, Roland Williams, Esq., attorney for David W. Chesire, M.D., 601 Blackstone Building, 233 E. Bay Street, Jacksonville, Florida 32202, Michael Davie, Esq., attorney for David L. Sall, M.D., P.O. Drawer 2069, Jacksonville, Florida 32203 and David A. Orea, M.D., Salisbury Lakes Medical Parke, 4237 Salisbury Road, Suite 407, Jacksonville, Florida 32216, this 12 day of June, 1989.

Thomas C. Wagner
Attorney

(2)035